

## **201 KAR 12:180. Hearing procedures.**

RELATES TO: KRS 317A.070, 317A.140, 317A.145

STATUTORY AUTHORITY: KRS 317A.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.140 authorizes the board to fine, revoke, suspend, or refuse to issue or renew a license. This administrative regulation establishes procedural guidelines for hearings before the board.

Section 1. The board may discipline an applicant, licensee, or permittee by fine, refusal to issue or renew a license, or revocation or suspension based upon the grounds set forth in KRS 317A.140.

Section 2. (1) If the board has grounds to discipline an applicant, licensee, or permittee, the board shall give the person twenty (20) days written notice of the board's intent to hold an administrative hearing prior to taking final action.

(2) The notice shall inform the person of:

- (a) The grounds upon which potential discipline is based;
- (b) The person's right to request a hearing before the board;
- (c) The date, time and place of the hearing if a hearing is requested;
- (d) The right to be represented by counsel;
- (e) The right to present witnesses on his or her behalf; and
- (f) The right to cross-examine any witnesses who may appear against him or her.

Section 3. Within ten (10) days of receipt of the board's notice, the licensee shall notify the board in writing if a hearing is requested. If the licensee does not request a hearing, in writing, within ten (10) days, the board shall take final action and discipline by fine, refusal to issue or renew a license, revocation, or suspension of a license.

Section 4. The chairman of the board or the designated hearing officer shall preside over all hearings and shall have the authority to rule on all motions and objections, to establish the hearing procedures, and to admit or exclude testimony or other evidence.

Section 5. The rules of civil procedure and strict rules of evidence shall not apply to hearings before the board. Unless varied by the presiding chairman or designated hearing officer, the order of proof shall be:

- (1) Evidence and witnesses testifying on behalf of the board as to violations and grounds for discipline;
- (2) Evidence and witnesses testifying on behalf of the licensee, permittee, or applicant;
- (3) Rebuttal evidence and witnesses on behalf of the board;
- (4) Closing statement or argument by the licensee, permittee, or applicant; and
- (5) Closing statement or argument by the board.

Section 6. After the conclusion of the hearing and the board's consideration of the evidence, the board or the designated hearing officer shall prepare findings of fact, conclusions of law, and order. The findings of fact, conclusions of law, and order shall be reviewed by the board for final approval at the next regularly scheduled meeting of the board or as soon thereafter as possible. Following the board's final approval of the findings of fact, conclusions of law, and order, the licensee shall be notified of the board's decision.

Section 7. The board may attempt to resolve potential disciplinary matters informally or through mediation. (14 Ky.R. 1994; eff. 5-9-88; 40 Ky.R. 390; 1037; eff. 12-6-2013.)